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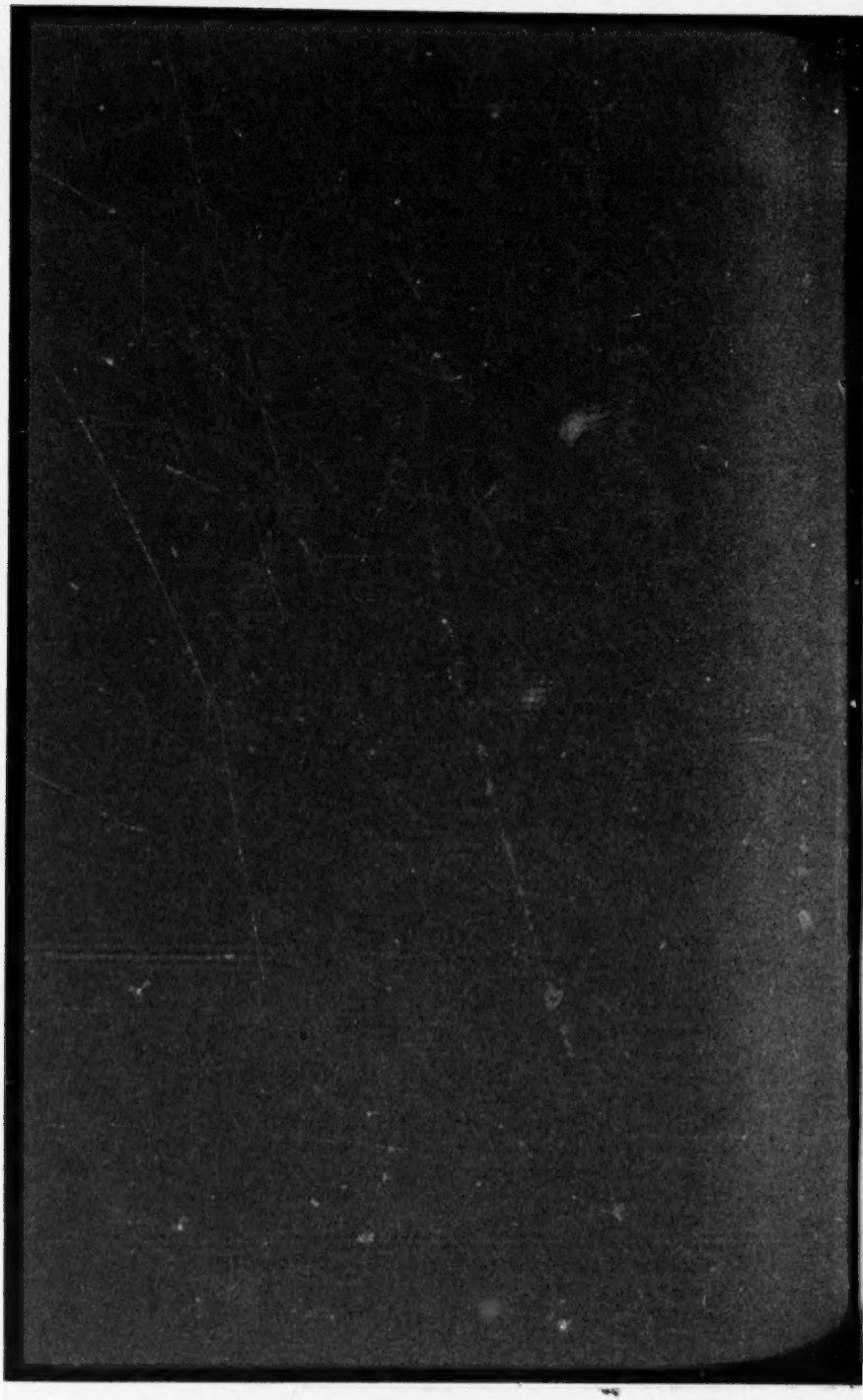

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1959

No. 550

JOHN A. HANNAH, ET AL., PETITIONERS,

vs.

J. A. H. SLAWSON, ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

INDEX

	Original	Print
Record from the United States District Court for the Western District of Louisiana	1	1
Complaint	1	1
Exhibit "A"—Rules of procedure for hearings of the Commission on Civil Rights	10	8
Motion for temporary restraining order	16	13
Transcript of proceedings of July 10, 1959 (omitted in printing)	18	
Temporary restraining order	84	14
Ruling on application for temporary restraining order (omitted in printing)	87	
Transcript of proceedings of July 13, 1959 (omitted in printing)	105	
Motion of complainants for continuing in effect temporary restraining order and for continuance of rule nisi for preliminary injunction	164	17
Notice of motion of defendants for summary judgment	166	18
Motion of defendants for summary judgment	167	18
Motion of defendants to vacate and dissolve temporary restraining order	169	19
Answer	171	20

	Original	Print
Record from the United States District Court for the Western District of Louisiana—Continued		
Stipulation in and between plaintiffs and defendants re Civil Action No. 9146	175	23
Stipulation in and between complainants and defendants	177	24
Exhibit—Sample form of subpoena to E. Ray McElveen	181	27
Transcript of proceedings of August 7, 1959 (omitted in printing)	182	
Amendment to answer	286	28
Ruling on preliminary injunction	287	29
Opinion (omitted in printing)	288	
Order on opinion	308	30
Opinion (omitted in printing)	310	
Notice of appeal to United States Court of Appeals for the Fifth Circuit	330	31
Designation of record	332	31
Docket entries	334	32
Clerk's certificate (omitted in printing)	336	
Proceedings in the United States Court of Appeals for the Fifth Circuit	337	33
Motion for an order directing the Clerk to transmit to the Supreme Court forthwith the certified copy of the record now filed with that Court	337	33
Order directing transmittal of original record and granting stay	341	36
Clerk's certificate	342	37
Order of Supreme Court of the United States on motion to advance	343	38

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[fol. 1] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, SHREVEPORT DIVISION

Civil Action No. 7480

J. A. H. Slawson et als.,

vs.

John A. Hannah, et als.

Complaint—Filed July, 10, 1959

I

Jurisdiction

(a) The jurisdiction of this Court is invoked under Title 28, U. S. Code, 1331, this being a civil action at law and in equity arising under the Constitution and laws of the United States, wherein the matter in controversy exceeds the sum of Ten Thousand ($10,000.00) Dollars exclusive of interest and costs.

(b) The jurisdiction of this Honorable Court is further invoked under Title 42, U. S. Code, Section 1985, this being an action authorized to be brought by any citizen of the United States or other person within the jurisdiction thereof, to redress the deprivation of civil rights, privileges, or immunities granted by the Constitution and laws of the United States and/or a denial of equal rights under the Constitution and laws of the Unite States which have been, are now, and threaten to continue to be accomplished by a conspiracy in violation of the Constitution of the United States, and particularly Amendments I, IV, V and VI, thereof.

II

Injunctive Relief

(a) The jurisdiction of this Court is also invoked under Rule 65, Federal Rules of Procedure and the above cited provisions of U. S. Code, this being an action for injunctive

relief, both temporary and permanent to enjoin and restrain persons, acting under color of statutes, ordinances, [fol. 2] regulations, customs or usages of the United States from subjecting or causing to be subjected, citizens of the United States to the deprivation of the rights, privileges or immunities secured by the Constitution or laws of the United States.

III

Facts

1. Complainants allege that J. A. H. Slawson is an adult citizen of the Parish of DeSoto; that Edward C. Hopgood is an adult citizen of the Parish of East Feliciana, that Ray McElveen, Diaz McElveen, Paul Farmer and Eugene Farmer are all citizens of the Parish of Washington; that all of these parties who are the complainants herein are citizens of the State of Louisiana and the United States.

2. Plaintiffs allege that John A. Hannah is a resident of East Lansing, Michigan, that Robert G. Storey is a resident of Dallas, Texas, that John S. Battle is a resident of Charlottesville, Virginia, that Rev. Theodore S. Hesburgh is a resident of South Bend, Indiana, that Doyle E. Carlton is a resident of Tampa, Florida, and that George M. Johnson is a resident of the State of California. That each of these defendants is a member of and together constitute the "Commission on Civil Rights" purportedly created by Public Law 85-315, 85th Congress, 71 Stat. 634, duly qualified and acting. That each of these parties is sued individually and in his official capacity as a member of the "Commission on Civil Rights".

3. Plaintiffs allege that they bring this suit in their own behalf and in behalf of all other persons who have been subpoenaed to appear and testify before the so called "Commission on Civil Rights" at its hearing scheduled for July 13, 1959, in Shreveport, Louisiana, or at any other hearing scheduled to be conducted under the resolutions, rules and regulations adopted by said "Commission on Civil Rights"; that they are members of a class of persons who are unlawfully discriminated against in the exercise of [fol. 3] their civil rights and who threaten to be deprived of most of the basic rights of citizens of the United States guaranteed by the first ten amendments, the Bill of Rights

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of the U. S. Constitution, all by the action of the aforesaid "Commission on Civil Rights"; that members of the class are so numerous as to make it impracticable to bring them all before this Court; that they, as members of the class, will adequately and fairly represent all members of the class; that the character of the rights sought to be enforced and protected for the class is several and that there is a common question of law and fact affecting the several rights of all of the class and a common relief is sought, and that they bring this action as a class action pursuant to Rule 23 (a)(3), Federal Rules of Civil Procedure.

4. That between the approximate dates of June 29, 1959, and July 9, 1959, your complainants were each served by a United States Marshal or Deputy United States Marshal with what purports to be subpoenaes and restraints, commanding your complainants each to appear before the said Commission at Shreveport, Louisiana, on July 13, 1959, there to testify at a hearing to be conducted under certain rules of procedure, copies of which were annexed to each summons, and a photocopy of which is annexed to these proceedings, marked "Exhibit A" and made a part hereof.

5. That complainants are informed and believe that said hearing is purportedly conducted under Section 104 (A)(1) of the Civil Rights Act of 1957 (Public Law 85-315, 85th Congress) for the purpose of investigating allegations in writing under oath or affirmation that certain citizens are being deprived of "their right to vote . . . by reason of their color, race, religion, or national origin." Complainants have been further informed and believe that such written allegations are in the nature of charges against your complainants which, if true, would constitute ground for criminal and civil proceedings against them. That your complainants have never been informed of the specific nature of any such complaints or complaint against them, the names of their accusers, or any facts against which any complaint might be based.

[fol. 4] 6. That Complainant especially alleges that the Commission on Civil Rights, acting through its duly authorized agents and representatives have repeatedly informed W. M. Shaw, Esq., Attorney for Complainants, and the Attorney General of the State of Louisiana, that said Commission would, under no circumstances, furnish any-

one accused of depriving individuals of their "right to vote" with copies of the written complaint required by Section 104(A)(1) of the Civil Rights Act upon which such investigations are to be based, nor would it permit any such accused persons to examine the same, nor would it divulge the name or names of the accusers who attest to the secret complaints. That specifically by letter dated April 14, 1959, Gordon M. Tiffany, Staff Director, Civil Rights Commission, advised Mr. W. M. Shaw that the said Commission had adopted a resolution to this effect. That by telegram dated May 29, 1959, the aforesaid Gordon M. Tiffany advised Honorable Jack P. Gremillion, Attorney General of Louisiana, of this position assumed by the Civil Rights Commission. That all of the foregoing has been done without any authority or sanction on the part of the Congress of the United States, the Chief Executive of the United States, or any other branch of the U. S. Government. That this action on the part of the so called "Civil Rights Commission" is "ultra vires" and without sanction in law or practice. That they constitute a flagrant denial of due process of law to your complainants.

That in addition, the rules of procedure attached to the subpoenas under which this hearing is supposed to be held are unconstitutional, ultra vires, null and void in the following respects:

(a) Paragraph 2 (E and G) set up a procedure whereby your appearers can be forced into a type of secret inquisition unknown to Anglo-American jurisprudence since the date of the Star Chamber and thereby forced to testify with regard to accusations made against them in secret and by nameless accusers and informants, and that should such complainants thereafter reveal any of their testimony given in such secret inquisitional hearing, such complainant can be fined and imprisoned. That the enormity of this [fol. 5] deprivation of basic rights and freedom of American citizens is such that it is difficult for anyone trained in the law to conceive that such a thing would be attempted in this day and age.

(b) Paragraph 2 (C and D) and 3 (I) provide for a system whereby a person called to testify can be completely deprived of his right to be represented by

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counsel of his own choosing and/or to protect himself in the course of the hearing by cross-examining their accusers, objecting to illegal and unconstitutional procedures on the part of the Commission and all of the other protections which a counsel learned in the law affords to his client.

(C) That Paragraph 2 (H) attempts to deny the right of judicial review to anyone appearing as a witness before it, in the event that witness should feel that the testimony sought to be adduced from him or the evidence which he might be required to produce is not pertinent or relevant to the purposes of the Commission. That under this provision complainants can be effectively denied due process of law, the right to be free from unreasonable searches and seizure and other basic rights inherent in any free society and which the Constitution sought to protect against invasions by minions of the Federal Government.

7. Complainants allege upon information and belief that the subpoenas which were issued to them were not issued in accordance with the Civil Rights Act and particularly Section 104(F) of said act, in that said subpoenas were not signed by the chairman of the Commission nor were they served by a person designated by such chairman.

8. That the several acts and actions herein complained of harass the complainants in pursuit of their several occupations and tend to defame complainants in the eyes of the public and prevent them from pursuing their present occupations and/or new occupations which they might wish to follow.

9. Complainants allege that defendants and each of them, while acting in their official capacity as set out hereinabove acted in concert and engaged in a common design, and in the past conspired and are now conspiring with each other, to deny complainants their rights and privileges as citizens of the State of Louisiana and the United States; that the defendants and each of them while acting in concert and engaged in a common design with each other, did in the [fol. 6] past conspire, are now conspiring, and threaten to continue to conspire together with each other to deny and deprive complainants of their right to be confronted by

their accusers, to know the nature and character of the charges made against them in official complaints lodged with the "Civil Rights Commission", to deprive them of counsel, to deny them their constitutional prerogative of immunity from testifying against themselves, all in violation of Amendments 1, 4 and 5 of the U. S. Constitution and 43 U.S.C. 1985.

10. Complainants are now and threaten to continue to be greatly harmed, damaged and injured by the wrongful, knowing and purposeful acts of the defendants and each of them, and they have no plain, adequate, or efficient remedy at law to redress the wrongful, knowing and purposeful acts of defendants other than this action for injunctive relief, that any other remedy to which they could be remitted would be attended by such uncertainties and delays as to amount to a substantial denial of relief, would involve a multiplicity of suits and would cause complainants irreparable harm and injury and occasion them severe hardship, vexation and delay, and that injunctive relief is necessary in the premises; that such relief is especially necessary, prior to a hearing because of the present and continuing irreparable injuries being suffered by your complainants.

IV

Prayer

Wherefore, the premises considered, complainants pray that upon the filing of this complaint, the Court:

1. Issue a temporary restraining order and judgment herein immediately and without notice in accordance with law upon defendants, their agents, servants, employees, successors in office and those acting in concert with them, enjoining them and each of them from:

(a) Requiring any testimony or the production of any records by complainants herein at the hearing scheduled for July 13, 1959, at Shreveport, Louisiana, or any specific hearing which may be called or scheduled by defendant herein until time as defendants have furnished or caused to be furnished to [fol. 7] complainant, copies of the charges and/or

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sworn complaints, together with the names and addresses of those persons making the charges or filing the sworn complaints upon which the scheduled hearing is alleged to be based and until such time as complainants have had reasonable time to examine, study and investigate the furnished information above described and requested; and

(b) From conducting any hearing pursuant to the rules and regulations adopted by defendants, a copy of which rules and regulations is attached hereto and made a part of this complaint, as well as conducting any hearing pursuant to the resolution adopted by defendants of date April 10, 1959; and

(c) Conspiring together with themselves or with any other person or persons to deny complainants their rights and privileges as citizens of the State of Louisiana and of the United States or to deny complainants their right to be confronted by their accusers, to know the nature of the charges made against them, or to deprive them of counsel or their constitutional prerogatives against unreasonable searches and seizures, immunity from testifying against themselves, all in violation of Amendments 1, 4 and 5 and 6 of the U. S. Constitution and 42 U.S.C. 1985; and

(d) From committing any of the aforesaid acts not only against complainants, but against any members of the class which complainants represent in these proceedings.

2. That this cause be advanced on the docket of this Honorable Court and set for a speedy hearing according to law, and upon such preliminary hearing that a temporary injunction issue enjoining and restraining defendants, their agents, servants, employees, successors in office and those acting in concert with them from the several acts and under the same terms and conditions as prayed for in paragraph 1 of this prayer.

3. That upon final hearing of this cause upon its merits this Honorable Court enter a permanent injunction that will enjoin and restrain the aforesaid defendants, their agents, servants, employees, successors in office and all persons acting in concert with them forever from the

several acts and under the same terms and conditions as prayed for in paragraphs 1 and 2 of this prayer.

4. That this Honorable Court allow complainants to [fol. 8] recover costs incurred herein and grant any other orders or relief which may appear fitting, proper or just in the premises whether the same is based upon the preliminary hearing prayed for or the trial of the case on its merits.

Meadors, Shaw and Meadors, By: W. M. Shaw,
Attorney for Plaintiffs.

Order

On further consideration of this cause;

It Is Ordered by the Court that the application for interlocutory injunction in the above case be fixed for hearing at ————, Louisiana, on ————————.

Shreveport, Louisiana, July ———, 1959.

[fol. 9] Duly sworn to by J. A. H. Slawson. Jurat omitted in printing.

[fol. 10] Exhibit "A" to Complaint

Rules of Procedure for Hearings of the Commission on Civil Rights

1. Under Public Law 85-315, Section 105(f), the Commission on Civil Rights may hold hearings and issue subpenas or authorize a subcommittee to hold hearings and issue subpenas under the following conditions:

The Commission or on the authorization of the Commission any subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such such times and places as the Commission or such authorized subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be

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issued in accordance with the rules of the Commission as contained in section 102(j) and (k) of this Act, over the signature of the Chairman of the Commission or of such subcommittee, and may be served by any person designated by such Chairman.

2. All such hearings of the Commission will be governed by the following statutory Rules of Procedure provided in Section 102 of Public Law 85-315:

(a) The Chairman or one designated by him to act as Chairman at a hearing of the Commission shall announce in an opening statement the subject of the hearing.

(b) A copy of the Commission's rules shall be made available to the witness before the Commission.

[fol. 11] (c) Witnesses at the hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(d) The Chairman or Acting Chairman may punish breaches of order and decorum and unprofessional ethics on the part of counsel, by censure and exclusion from the hearings.

(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall (1) receive such evidence or testimony in executive session; (2) afford such person an opportunity voluntarily to appear as a witness; and (3) receive and dispose of requests from such person to subpena additional witnesses.

(f) Except as provided in sections 102 and 105(f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpena additional witnesses.

(g) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without the consent of the Commission evidence or testimony taken in executive session shall be fined not more than $1,000, or imprisoned for not more than one year.

(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in

writing for inclusion in the record. The Commission is the sole judge of the pertinency of testimony and evidence adduced at its hearings.

[fol. 12] (i) Upon payment of the cost thereof, a witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the Commission.

(j) A witness attending any session of the Commission shall receive $4 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 8 cents per mile for going from and returning to his place of residence. Witnesses who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of $12 per day for expenses of subsistence, including the time necessarily occupied in going to and returning from the place of attendance. Mileage payments shall be tendered to the witness upon service of a subpena issued on behalf of the Commission or any subcommittee thereof.

(k) The Commission shall not issue any subpena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpenaed at a hearing to be held outside of the State, wherein the witness is found or resides or transacts business.

3. In addition to these statutory provisions, the Commission has adopted the following supplementary Rules of Procedure:

(a) All the provisions of Section 102 of Public Law 85-315, incorporated in Rule 2 above, shall be appli-

[fol. 13] cable to and govern the proceedings of all subcommittees appointed by the Commission pursuant to Section 105(f) of Public Law 85-315, incorporated in Rule 1 above.

(b) At least two members of the Commission must be present at any hearing of the Commission or of any sub-committee thereof.

(c) The holding of hearings by the Commission or the appointment of a subcommittee to hold hearings

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pursuant to the provisions in Rule 1 above must be approved by a majority of the members of the Commission or by a majority of the members present at a meeting at which at least a quorum of four members is present.

(d) Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued over the signature of the Chairman of the Commission by the Chairman or by the Chairman upon the request of a member of the Commission.

(e) Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued over the signature of the Chairman of a subcommittee appointed pursuant to the provisions of Rule 1 above by the Chairman or by the Chairman upon the request of a member of the subcommittee.

(f) An accurate transcript shall be made of the testimony of all witnesses in all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof. Each witness shall have the right to inspect the record of his own testimony. A transcript copy of his testimony may be purchased [fol. 14] by a witness pursuant to Rule 2 (i) above. Transcript copies of public sessions may be obtained by the public upon payment of the cost thereof.

(g) Any witness desiring to read a prepared statement in a hearing shall file a copy with the Commission or subcommittee 24 hours in advance. The Commission or subcommittee shall decide whether to permit the reading of such statement.

(h) The Commisssion or subcommittee shall decide whether written statements or documents submitted to it shall be placed in the record of the hearing.

(i) Interrogation of witnesses at hearings shall be conducted only by members of the Commission or by authorized staff personnel.

(j) If the Commission pursuant to Rule 2(e), or any subcommittee thereof, determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall advise such person

that such evidence has been given and it shall afford such person an opportunity to read the pertinent testimony and to appear as a voluntary witness or to file a sworn statement in his behalf.

(k) Subject to the physical limitations of the hearing room and consideration of the physical comfort of Commission members, staff, and witnesses, equal and reasonable access for coverage of the hearings shall be provided to the various means of communications, including newspapers, magazines, radio, news [fol. 15] reels, and television. However, no witness shall be televised, filmed or photographed during the hearing if he objects on the ground of distraction, harassment, or physical handicap.

4. Public Law 85-315, Section 105(g) provides that in case of contumacy or refusal to obey a subpena of either the Commission or a subcommittee thereof, any district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(As approved and adopted by the Commission July 1, 1958)

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[fol. 16] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, SHREVEPORT DIVISION

[Title omitted]

MOTION FOR TEMPORARY RESTRAINING ORDER—Filed July 10, 1959

Comes now plaintiffs and move the Court, upon the verified complaint herein for a temporary restraining order against defendants in the above entitled and numbered cause, enjoining them, their agents, servants, employees, successors in office and those acting in concert with them from:

(1) Requiring any testimony from or the production of evidence by any of the plaintiffs or members of the class to which they belong at the hearing scheduled for July 13, 1959 at Shreveport, Louisiana, or any other hearing which might be called by defendants herein until such time as complainants and/or each witness called has been furnished with a copy of the sworn complaint or complaints covering the matters to which they are called to testify together with the names of the persons making the complaint and until such further time as complainants have had a reasonable time to examine and study the same.

(2) Conducting any hearing pursuant to the rules and regulations adopted by defendants and attached to the subpoenas served on your complainants, as well as any hearing conducted pursuant to the resolution adopted by defendant on April 10, 1959, and

(3) Conspiring together with themselves or other persons to deprive the complainants and/or the members of the class to which they belong of any of their constitutional rights, privileges and immunities.

Plaintiffs further move for said restraining order to issue forthwith without notice on the grounds that im- [fols. 17-83] mediate, substantial and irreparable damage and injury will result to plaintiffs before notice can be served and a hearing had thereon, as more fully appears from the verified complaint. This irreparable injury will

result because plaintiffs are currently under subpoena to testify before said Committee on July 13, 1959, and sufficient time does not remain to have a hearing on the application for a preliminary injunction.

If this temporary restraining order be granted, the injuries, if any, to defendants herein, if subsequent judgments be in their favor will be inconsiderable and will be adequately indemnified by bond.

Meadors, Shaw and Meadors, By: W. M. Shaw, Attorney for Plaintiffs, P. O. Box 209, Homer, Louisiana.

(Clerk's Note. Hereafter Appears Transcript of Proceedings of July 10, 1959. It Appears in the Record in the Companion Case of No. 549 and Is Not Duplicated Here)

[fol. 84] [File endorsement omitted]

In the United States District Court for the Western District of Louisiana, Shreveport Division

Civil Action No. 7479

Mrs. Margaret M. Larche, et al., in Their Individual Capacities and as Registrars of Voters in and for Their Parishes, of the State of Louisiana

vs.

John A. Hannah, et al., Individually and as Members of the Commission on Civil Rights

Temporary Restraining Order—July 12, 1959

Upon the verified complaint heretofore filed herein, and upon motion by complainants for a preliminary injunction and for a temporary restraining order against defendants, it appearing to this Court that the complaint seeks a judgment and enjoining the defendants,

John A. Hannah, whom complainants allege to be a resident of East Lansing, Michigan;

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Robert G. Storey, whom complainants allege to be a resident of Dallas, Texas;

John S. Battle, whom complainants allege to be a resident of Charlottesville, Virginia;

Rev. Theodore S. Hesburgh, whom complainants allege to be a resident of South Bend, Indiana;

Doyle E. Carlton, whom complainants allege to be a resident of Tampa, Florida;

George M. Johnson, whom complainants allege to be a resident of the State of California, presently residing in Washington, D. C.,

individually and in their capacity as members of the Commission on Civil Rights created by Public Law 85-315, 85th Congress, 71 Stat. 634; U.S.C.A. 42:1975 et seq., their agents, servants, employees and attorneys from enforcing, [fol. 85] attempting to enforce, proceeding under, or holding any hearings pursuant to Public Law 85-315, 85th Congress, 71 Stat. 634; U.S.C.A. 42:1975 et seq., and the rules of procedure promulgated pursuant thereto as concerns complainants herein and others similarly situated upon the ground, among others, that the aforesaid statute is unconstitutional, this Court finds that irreparable damage will be caused to complainants unless a temporary restraining order is issued against the said defendants, and all of them, for the reasons stated in a written ruling this day filed, and made part hereof by reference.

Now, Therefore it is ordered, adjudged and decreed that the said,

John A. Hannah, whom complainants allege to be a resident of East Lansing, Michigan;

Robert G. Storey, whom complainants allege to be a resident of Dallas, Texas:

John S. Battle, whom complainants allege to be a resident of Charlottesville, Virginia;

Rev. Theodore S. Hesburgh, whom complainants allege to be a resident of South Bend, Indiana;

Doyle E. Carlton, whom complainants allege to be a resident of Tampa, Florida;

George M. Johnson, whom complainants allege to be a resident of the State of California, presently residing in Washington, D. C.,

individually and in their capacity as members of the Commission on Civil Rights, created by Public Law 85-315, 85th Congress, 71 Stat. 634; U.S.C.A. 42:1975 et seq., together with their agents, servants, employees and attorneys, be restrained temporarily and enjoined from proceeding under or holding any hearings pursuant to said Public Law, as concerns complainants herein and others similarly situated, [fols. 86-104] and particularly as regards the hearing scheduled by the Commission on Civil Rights fixed for July 13, 1959, at Shreveport, Louisiana, until the hearing and determination of the motion for a preliminary or interlocutory injunction by a full Court of three judges, to be held, as hereinafter ordered, on July 22, 1959.

It is further ordered that a rule nisi issue herein, directed to said parties hereby restrained, commanding them to show cause, if any they can, at 9:30 a.m. July 22, 1959, at the Federal courtroom, 3rd floor, United States Post Office and Courthouse, Shreveport, Louisiana, why the preliminary or interlocutory injunction prayed for by plaintiffs, should not be granted.

Issued at Shreveport, Louisiana, at 5:12 o'clock p.m., this 12th day of July, 1959.

(Sig.) Ben C. Dawkins, Jr., United States District Judge.

(Clerk's Note: Hereafter follows Ruling on Application for Temporary Restraining Order. It is identical with the ruling entered in the companion case of No. 549, and is not duplicated here).

[fols. 105-163] (Clerk's Note: Hereafter appears Transcript of Proceedings of July 13, 1959. It appears in the record in the companion case No. 549, and is not duplicated here.)

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[fol. 164] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, SHREVEPORT DIVISION

[Title omitted]

MOTION OF COMPLAINANTS FOR CONTINUING IN EFFECT TEMPORARY RESTRAINING ORDER AND FOR CONTINUANCE OF RULE NISI FOR PRELIMINARY INJUNCTION—Filed July 22, 1959

To the honorable, the Judges of the United States District Court, for the Western District of Louisiana, Shreveport Division:

On motion of William M. Shaw, Attorney for Petitioners herein; and,

On suggesting to the Court that a temporary restraining order was issued herein July 12, 1959, at or about 5:30 p.m. against the defendants herein which restraining order will expire on July 22, 1959 at 9:30 a.m.; and,

On further suggesting to the Court that the rule nisi issued herein is set for hearing at 9:30 a.m., August 7, 1959; and,

On further suggesting to the Court that your movants and defendants' counsel have been informed, that due to the condition of the docket in this Honorable Court and previous commitments made prior to the issuance of the above mentioned orders that it will be impossible for the said rule to be heard at the time and place previously fixed, namely, July 22, 1959:

It is ordered by the Court, that the temporary restraining order heretofore issued be continued in full force and effect from July 22, 1959, until 9:30 a.m. August 1st, 1959, or until the rule for preliminary injunction be heard, and that the hearing on the rule nisi be likewise continued from July 22, 1959, until 9:30 a.m. August 7, 1959.

s/ Ben C. Dawkins, Jr. United States District Judge.

Issued at Shreveport, Louisiana, at 9:30 o'clock, on this, the 22nd day of July, 1959.

[fol. 165] Above motion prepared and respectfully submitted by William M. Shaw, Attorney for Petitioners.

s/ W. M. Shaw, Box 209, Homer, La.

CERTIFICATE OF SERVICE OMITTED IN PRINTING

[fol. 166] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, SHREVEPORT DIVISION

[Title omitted]

NOTICE OF MOTION OF DEFENDANTS FOR SUMMARY JUDGMENT —Filed July 31, 1959

Please take notice that the undersigned will bring the attached motion for summary judgment on for hearing before the Honorable Ben C. Dawkins, Jr., at 9:30 a.m., August 7, 1959 at the United States Post Office and Courthouse, Shreveport, Louisiana, or as soon thereafter as counsel may be heard, and that the motion will be submitted upon the complaint and answer and exhibits attached thereto on file.

/s/ W. Wilson White, Assistant Attorney General.
T. Fitzhugh Wilson, United States Attorney.

To: W. M. Shaw, Esq., Meadors, Shaw and Meadors, P. O. Box 209, Homer, Louisiana, Attorney for Plaintiffs.

[fol. 167] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, SHREVEPORT DIVISION

[Title omitted]

MOTION OF DEFENDANTS FOR SUMMARY JUDGMENT—Filed July 31, 1959

Comes now the Attorney General of the United States, by W. Wilson White, Assistant Attorney General and T. Fitzhugh Wilson, United States Attorney, as attorneys for the United States Commission on Civil Rights, and as

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attorneys for John A. Hannah, Robert G. Storey, John S. Battle, Theodore S. Hesburgh, Doyle N. Carlton, and George M. Johnson, the members of said Commission in their official and individual capacities and show this Court as follows:

1. The Complaint fails to state a claim against defendants upon which relief can be granted.
2. Injunctive relief is unavailable because there is no legal injury or threat of legal injury.
3. Injunctive relief is unavailable because plaintiffs must pursue the remedies provided by law.
4. The action is in effect an unconsented suit against the United States or in the alternative the United States is an indispensible party which has not consented to be sued.

[fol. 168] Wherefore the premises considered defendants by their attorneys respectfully move this court to enter summary judgment for the defendants, in accordance with the provisions of Rule 56(b) of the Rules of Civil Procedure, on the ground that the pleadings and exhibits attached thereto show that the defendants are entitled to judgment as a matter of law.

/s/ W. Wilson White, Assistant Attorney General.
T. Fitzhugh Wilson, United States Attorney.

[fol. 169] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, SHREVEPORT DIVISION

[Title omitted]

MOTION OF DEFENDANTS TO VACATE AND DISSOLVE TEMPORARY RESTRAINING ORDER—Filed July 31, 1959

Comes now the Attorney General of the United States, by W. Wilson White, Assistant Attorney General, and T. Fitzhugh Wilson, United States Attorney, as attorneys for the United States Commission on Civil Rights and as attorneys for John A. Hannah, Robert G. Storey, John S. Battle, Theodore S. Hesburgh, Doyle E. Carlton, and

George M. Johnson, the members of said Commission in their official and individual capacities, and move this Court to vacate and dissolve the temporary restraining order entered in this cause and in support of such motion show the Court as follows:

1. That said temporary restraining order was entered by this Court on July 12, 1959, at or about 5:30 p.m., and that on July 22, 1959 it was extended by order of this Court to August 1, 1959, at 9:30 a.m. or until the rule for a preliminary injunction could be heard.

2. That the rule for a preliminary injunction in this cause has been set for hearing by the same order of this Court of July 22, 1959, referred to above, for August 7, 1959, at 9:30 a.m.

3. That Rule 65 of the Rules of Civil Procedure provides for the issuance of a temporary restraining order for a period of 10 days, and permits an extension of such order for only one additional period of 10 days.

[fol. 170] Wherefore, it appearing that August 7, 1959, to which date the order of the Court extends the temporary restraining order, is beyond the maximum time permitted by said Rule 65, it is respectfully moved that this Court vacate and dissolve the temporary restraining order in this cause.

(S.) W. Wilson White, Assistant Attorney General.
T. Fitzhugh Wilson, United States Attorney.

[fol. 171] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, SHREVEPORT DIVISION

[Title omitted]

ANSWER—Filed July 31, 1959

In response to the rule to show cause issued by this Court, comes now the Attorney General of the United States by W. Wilson White, Assistant Attorney General,

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and T. Fitzhugh Wilson, United States Attorney, as attorneys for the United States Commission on Civil Rights, and as attorneys for John A. Hannah, Robert G. Storey, John S. Battle, Theodore S. Hesburgh, Doyle E. Carlton, and George M. Johnson, the members of said Commission in their official and individual capacities, and answer the complaint herein as follows:

First Defense

The complaint fails to state a claim against defendants upon which relief can be granted.

Second Defense

Injunctive relief is unavailable because there is no legal injury or threat of legal injury to plaintiffs.

Third Defense

Injunctive relief is unavailable and premature because plaintiffs have adequate remedies at law.

[fol. 172] Fourth Defense

The court lacks jurisdiction because the action is in effect an unconsented suit against the United States, or in the alternative because the United States is an indispensible party to this action and has not consented to be sued.

Fifth Defense

1. In answer to paragraphs I and II defendants are not required to plead as the allegations are conclusions at law, but insofar as answer may be required defendants deny each and every allegation contained in paragraphs I and II.

2. In answer to paragraph III:

(a) defendants admit the allegations contained in subparagraphs 1, 2, and 4;

(b) with respect to subparagraph 3 defendants are not required to plead, as the allegations contained therein are conclusions at law, but insofar as answer

may be required defendants deny each and every allegation contained in said subparagraph;

(c) defendants admit that part of subparagraph 5 which alleges that the hearing of the Commission on Civil Rights was to be conducted for the purpose of investigating allegations in writing on oath or affirmation that certain citizens are being deprived of their right to vote on account of race or color, and that the names of persons making such allegations and the content of such allegations have not been revealed to plaintiffs, but as to the remainder of said subparagraph defendants are not required to plead, as the matters contained therein are conclusions at law, but insofar as answer may be required such allegations are denied;

[fol. 173] (d) defendants admit that part of subparagraph 6 which alleges that the Commission adopted the resolution referred to therein, and that counsel for plaintiffs and the Attorney General of the State of Louisiana were informed of the contents of said resolution, but with respect to the remainder of said subparagraph defendants are not required to plead as the allegations contained therein are conclusions of law, but insofar as answer may be required defendants deny each and every allegation contained in said subparagraph;

(e) defendants deny the allegations contained in subparagraph 7, to wit: that the subpoenas were not signed by the Chairman of the Commission or served by persons designated by him. On the contrary such subpoenas were duly issued and served in accordance with law;

(f) defendants deny each and every allegation contained in subparagraphs 9 and 10. In connection with said subparagraphs defendants allege that the purpose and only purpose of the Commission's actions in setting up the hearing complained of herein was to fulfil its statutory obligation under the Civil Rights Act of 1957, Public Law 85-315.

3. With respect to paragraph IV defendants are not required to plead.

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[fol. 174] Wherefore it is respectfully requested that this Court discharge the rule to show cause, dismiss this action and enter judgment for defendants.

/s/ W. Wilson White, Assistant Attorney General
T. Fitzhugh Wilson, United States Attorney.

[fol. 175] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, SHREVEPORT DIVISION

[Title omitted]

STIPULATION IN AND BETWEEN PLAINTIFFS AND DEFENDANTS RE CIVIL ACTION NO. 9146—Filed Aug. 7, 1959

I

The Stipulation (copy attached) filed in this Court on August 7, 1959 in Civil Action No. 7479 shall be considered for all purposes as having been entered into between counsel in this suit insofar as it is relevant and material thereto.

II

A suit was filed on June 30, 1959 against plaintiffs Diaz D. McElveen, E. Ray McElveen and Eugene Farmer, alleging a violation of 42 U.S.C. 1971, Civil Action No. 9146, Eastern District of Louisiana. It is agreed that this Court may take judicial notice of the record in that case.

III

Attached hereto is the original subpoena served on plaintiff E. Ray McElveen, which subpoena is similar in all pertinent respects to subpoenas issued to all other plaintiffs herein.

IV

Each of plaintiffs, if called to testify herein, would state that if a hearing were held by the Commission and testimony of witnesses was adduced to the effect that plaintiffs were depriving certain citizens of their right to vote on

account of race or color, in the opinion of each of the plaintiffs irreparable harm would be done to his reputation [fol. 176] and adversely affect his occupation.

s/ W. M. Shaw, Attorney for Plaintiffs. W. Wilson White, Attorney General of the United States. T. Fitzhugh Wilson, United States Attorney, Western District of Louisiana, Attorneys for Defendants.

[fol. 177] IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, SHREVEPORT DIVISION

Civil Action No. 7479

MRS. MARGARET M. LARCHE, et al., in their individual capacities and as Registrars of Voters in and for their Parishes of the State of Louisiana, Complainants,

vs.

JOHN A. HANNAH, et al., individually and as members of the Commission on Civil Rights, Defendants

STIPULATION IN AND BETWEEN COMPLAINANTS AND DEFENDANTS—Filed August 7, 1959

1

Complainants, Mrs. Margaret M. Larche, Mrs. Mae Lucky, Curtis M. Thomas, Mrs. W. P. Clements, Mrs. Mary K. Bryce, Mrs. Lannie L. Linton, Mrs. Pauline A. Culpepper, Sidney W. Platt, Cecil E. Manning, Miss Katherine Ward, B. W. Berry, Henry Earl Palmer, Thomas W. Thompson, Mrs. Estelle Wilder, Joseph Walton Crawford, Johnie L. Kelly, and U. Charles Mitchell, are citizens of the United States and the State of Louisiana, taxpayers, qualified voters, and Registrars of Voters in and for their respective parishes of the State of Louisiana.

2

Defendants: John A. Hannah, a resident of East Lansing, Michigan; Robert C. Storey, a resident of Dallas,

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Texas; John S. Battle, a resident of Charlottesville, Virginia; Rev. Theodore S. Hesburgh, a resident of South Bend, Indiana; Doyle E. Carlton, a resident of Tampa, Florida; and George M. Johnson, a resident of the State of California, presently residing in Washington, D.C., are citizens of the United States and, as well, members of the Commission on Civil Rights.
[fol. 178]

3

The Attorney General of Louisiana, Honorable Jack P. F. Gremillion, is legal counsel designated by the legislature for all Registrars of Voters of the State of Louisiana, and the other counsel of record are attorneys for the complainants respectively in their individual capacities.

4

Honorable Gordon M. Tiffany is the duly appointed Staff Director for the Commission on Civil Rights and has acted in this matter by virtue of such authority and under the authority of the Commission on Civil Rights.

5

The Commission on Civil Rights received sixty-seven (67) written allegations prior to February 27, 1959, under oath or affirmation, from certain citizens of the United States alleging they were citizens of the State of Louisiana and that they had been deprived of their right to vote because of their color, race, religion, or national origin, and that these were received sometime prior to February 27, 1959, a number of which alleged generally that the plaintiffs in suit, through their acts and deeds, had caused such deprivation.

6

That after the Commission on Civil Rights received these complaints, investigators of the Commission were sent to the State of Louisiana and investigated the same.

7

The Commission, through its Staff Director, Gordon M. Tiffany had conferences with Attorney General Jack P. F.

Gremillion, concerning the possibility of submitting questionnaires to Registrars of Voters in lieu of a hearing. Prior thereto, attorney W. M. Shaw, on behalf of his client, Mrs. Lannie L. Linton, addressed a Letter to the Com-[fol. 179] mission dated March 14, 1959 (copy attached), which was replied to by the commission under date of April 14, 1959, signed by Director, Tiffany (copy attached), and that the resolution of the Commission quoted in said letter of April 14th was duly passed by the Commission and represents its official action.

8

Thereafter, Director Tiffany furnished to each of the Registrars and to Attorney General Jack P. F. Gremillion a questionnaire (copy attached). After conference with the Registrars of Voters, Attorney General Gremillion addressed a letter to Director Tiffany dated May 28, 1959 (copy attached) to which Director Tiffany replied on May 29, 1959 by telegram (copy attached), which was replied to by Attorney General Gremillion on June 2, 1959 (copy attached). Following this communication, a letter dated June 4, 1959 (copy attached) from Gordon M. Tiffany to Attorney General Gremillion was received.

9

That the Commission on Civil Rights at an official meeting held in Washington, D. C. on June 10, 1959, authorized a hearing on Louisiana voting complaints, pursuant to Section 105 f of the Civil Rights Act of 1957, 71 Stat. 634. The hearing was scheduled to be held on July 13, 1959 in Shreveport, Louisiana.

10

Thereafter the Commission duly issued subpoenas in connection with the aforesaid hearing of July 13, 1959 and caused said subpoenas to be served on plaintiffs in suit No. 7479 by the United States Marshal. Subpoenas were also served by said Marshal on the plaintiffs in suit No. 7480 on the docket of this Court. The remainder of the said subpoenas were served through the Commission's own process. The total number of subpoenas caused to be issued by the Commission numbered approximately sixty (60). True

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and accurate copies of the subpoenas served on the plaintiffs in the two respective suits are attached to said petitions, the [fol. 180] originals of which were all served prior to July 9, 1959. Attached to these subpoenas was a copy of the official Rules of Procedure For Hearings of the Commission on Civil Rights as well as a copy of the said Civil Rights Act, and each plaintiff was tendered mileage and per diem in accordance with the said Act.

11

Exhibits A through T inclusive, attached to and made a part of the affidavit filed herein by Jack P. F. Gremillion, Attorney General of the State of Louisiana, are true and accurate copies of the originals of said copies, provided, however, that defendants reserve the right to make objections to the relevancy and materiality thereof.

Attorney for Complainants: Jack P. F. Gremillion, Attorney General of the State of Louisiana. Attorneys for Defendants: W. Wilson White, Assistant Attorney General of the United States. T. Fitzhugh Wilson, United States Attorney, Western District of Louisiana.

[fol. 181-285] EXHIBIT TO STIPULATION

UNITED STATES OF AMERICA COMMISSION ON CIVIL RIGHTS

To: E. Ray McElveen.

at: N. Borden Drive, Bogalusa, Louisiana.

Greetings:

Pursuant to lawful authority (P. L. 85-315), You Are Hereby Commanded to be and appear before the Commission on Civil Rights of the United States of America, or a duly appointed Subcommittee thereof, on July 13, 1959 at 9:00 o'clock, a.m., at their Commission Hearing Room at U. S. District Court Room, U. S. Post Office Bldg., 424 Texas Street, Shreveport, Louisiana, then and there to testify what you may know relative to subject matters of inquiry committed by law to the consideration of said Com-

mission, and not to depart without leave of said Commission.

You Are Hereby Commanded to bring with you and produce before said Commission, or a duly authorized Subcommittee thereof, the following:

Hereof Fail Not, as you will answer your default under the pains and penalties in such cases made and provided in Sections 105(f) and 105(g) of the Civil Rights Act of 1957, reproduced herein.

To United States Marshal to serve along with the attached copy of the Rules of Procedure approved by the Commission on Civil Rights, and a copy of the Civil Rights Act of 1957.

Given under my hand this 29th day of June in the year of our Lord, 1959.

J. A. Hannah (Chairman—Chairman of Subcommittee)

(Clerk's Note: Hereafter appears Transcript of Proceedings of August 7, 1959. It appears in the Record in the Companion Case of No. 549 and it is not Duplicated Here).

[fol. 286] [File endorsement omitted]

In the United States District Court for the Western District of Louisiana, Shreveport Division

[Title omitted]

Amendment to Answer—Filed August 7, 1959

The answer to the complaint heretofore filed on behalf of the defendants is amended in the following respect:

Subparagraph (f) of Paragraph 2 of the fifth defense is amended so that the first sentence thereof shall read as follows:

> defendants deny each and every allegation contained in subparagraphs 8, 9, and 10.

s/ W. Wilson White Assistant Attorney General.
T. Fitzhugh Wilson, United States Attorney.

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[fol. 287-307] [File Endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, SHREVEPORT DIVISON

Civil Action No. 7480

J. A. H. SLAWSON, et als.,

vs.

JOHN A. HANNAH, et als.

Ben C. Dawkins, Jr., Chief Judge.

RULING ON PRELIMINARY INJUNCTION—Nov. 9, 1959

For the reasons assigned in the majority opinion in Civil Action No. 7479, entitled "Mrs. Margaret M. Larche, et. als., vs. John A. Hannah, et als.", dated October 6th, 1959, copy of which is annexed hereto and made a part hereof by reference,

The preliminary injunction prayed for by plaintiffs will be Granted.

Thus Done and Signed in Chambers on this 9th day of November, 1959.

Ben C. Dawkins Jr., United States District Judge.

(CLERKS NOTE: THE OPINION REFERRED TO APPEARS IN THE RECORD IN THE COMPANION CASE OF No. 549 AND IS NOT DUPLICATED HERE).

[fol. 308] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, SHREVEPORT DIVISON

Civil Action No. 7480

J. A. H. SLAWSON, et als.,

vs.

JOHN A. HANNAH, et als.

Ben C. Dawkins, Jr., Chief Judge.

ORDER ON OPINION—Nov. 9, 1959

For the reasons assigned in the majority opinion in Civil Action No. 7479, entitled "Mrs. Margaret M. Larche, et als, vs. John A. Hannah, et als", dated October 6th, 1959, copy of which is annexed hereto and made a part hereof by reference,

It Is Ordered, Adjudged and Decreed that defendants and their agents, servants, employees and attorneys are enjoined and restrained from conducting the proposed hearing in Shreveport, Louisiana, wherein plaintiffs, accused of depriving others of the right to vote, would be denied the right of apprisal, confrontation and cross examination.

This injunction does not prohibit all hearing pursuant to Public Law 85-315, 85th Congress, 42 U.S.C.A. 1975, et seq., but only those hearings proposed to be held in the Western District of Louisiana wherein the accused are denied the right of apprisal, confrontation and cross examination.

[fol. 309-329] Thus Done and Signed in Chambers on this the 9th day of November, 1959.

Ben C. Dawkins, United States District Judge.

(CLERK'S NOTE: THE OPINION REFERRED TO APPEARS IN THE RECORD IN THE COMPANION CASE OF NO. 549 AND IS NOT DUPLICATED HERE.)

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[fol. 330] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, SHREVEPORT DIVISION

[Title omitted]

NOTICE OF APPEAL—Filed Nov. 19, 1959

Notice is hereby given that John A. Hannah, et al., the defendants above named, hereby appeal to the United States Court of Appeals for the Fifth Circuit from the order granting an injunction entered in this section on November 9, 1959.

/s/ Joseph M. F. Ryan, Jr., Acting Assistant Attorney General, Civil Rights Division, Department of Justice, Washington, D. C. T. Fitzhugh Wilson, United States Attorney, Western District of Louisiana, Shevreport, Louisiana, Attorneys for Appellants.

[fol. 331] CERTIFICATE OF SERVICE OMITTED IN PRINTING

[fol. 332] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, SHREVEPORT DIVISION

[Title omitted]

DESIGNATION OF RECORD—Filed Nov. 19, 1959

The appellants (defendants in the above-entitled case) hereby designate, for transmission to the United States Court of Appeals for the Fifth Circuit, the entire record in the District Court, to constitute the record on appeal.

/s/ Joseph M. F. Ryan, Jr., Acting Assistant Attorney General, Civil Rights Division, Department of Justice, Washington, D. C. T. Fitzhugh Wilson, United States Attorney, Western District of Louisiana, Shreveport, Louisiana.

[fol. 333] CERTIFICATE OF SERVICE OMITTED IN PRINTING

(Here follow 2 Photolithographs, side folios 334, 335)

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32A

[fol. 334] DOCKET

CASE NO. 7480 ✓

SHREVEPORT	TITLE OF CASE ✓	ATTORNEYS
	J.A.H.SLAWSON, EDWARD C. HOPGOOD, RAY McELVEEN, DIAZ McELVEEN, PAUL FARMER, and EUGENE FARMER 2 vs. JOHN A. HANNAH, Individually and as a member of the COMMISSION ON CIVIL RIGHTS; et al * (& the other five members thereof)	For Plaintiffs: Meadors, Shaw and Meadors, W.M.Shaw, Homer, Louisiana T.FITZHUGH WILSON, U.S.ATTY., PO BOX 33, Shreveport, La. for the Commission & its individual members. [illegible], Asst.Atty.Gen., Washington, D.C. For Defendants; C.E.Clark, Legal Asst. to Hon. Robt.G. Storey, Vice-Chairman of Commission, Washington, D.C.; Gordon M.Tiffany, Director, Comm.on Civil Rights, Earl R.Barnhard, Atty for Comm.on Civil Rights, A.William Mottolese, Atty for Comm. on Civil Rights, Ben Brooks,

Suit under T.42, Sec.1985&1331, USC & Amendments I, IV, V & VI of the U.S.Constitution for a temporary restraining order & injunction against

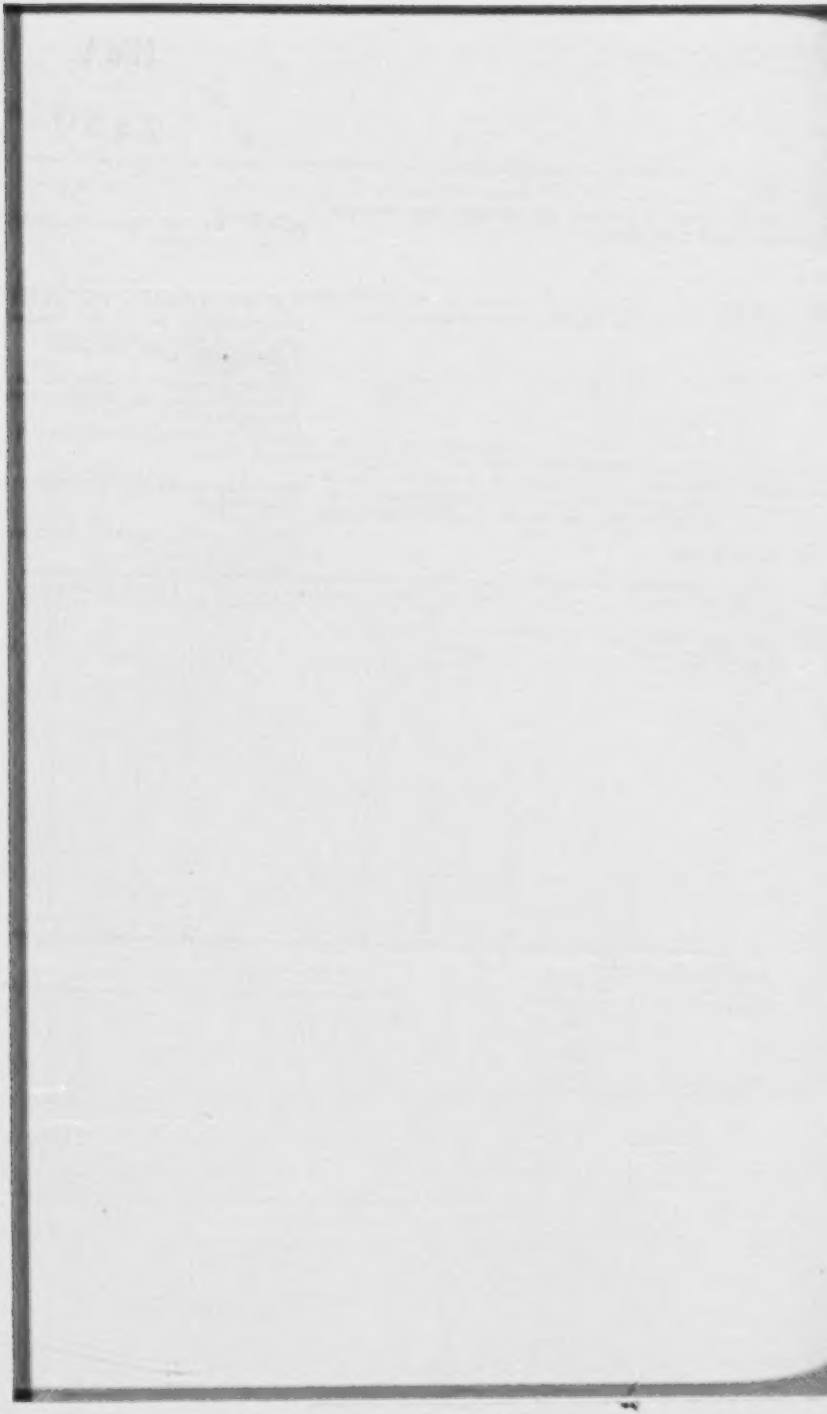
Basis of action: Commission enjoining it from holding hearing at S'port., La. 7-13-59 & requiring production of documents, etc.

Jury trial claimed by NI

on , 19

DATE	PLAINTIFF'S ACCOUNT	RECEIVED	DISBURSED	DATE	DEFENDANT'S ACCOUNT	RECEIVED	DISBURSED
1959					D. Robert Owen		
7-10	Jack P.F.Gremillion	15.00					
7-16	Treas of US T-[illegible] 3		15.00				

ABSTRACT OF COSTS		
1959 TO WHOM DUE	AMOUNT	RECEIPTS, REMARKS, ETC.
7-10, Clerk's	15.00	
7-13, USM	9.00	
7-17, USM	7.20	
7-22, USM	2.00	
1-19, Notice of Appeal	5.00	



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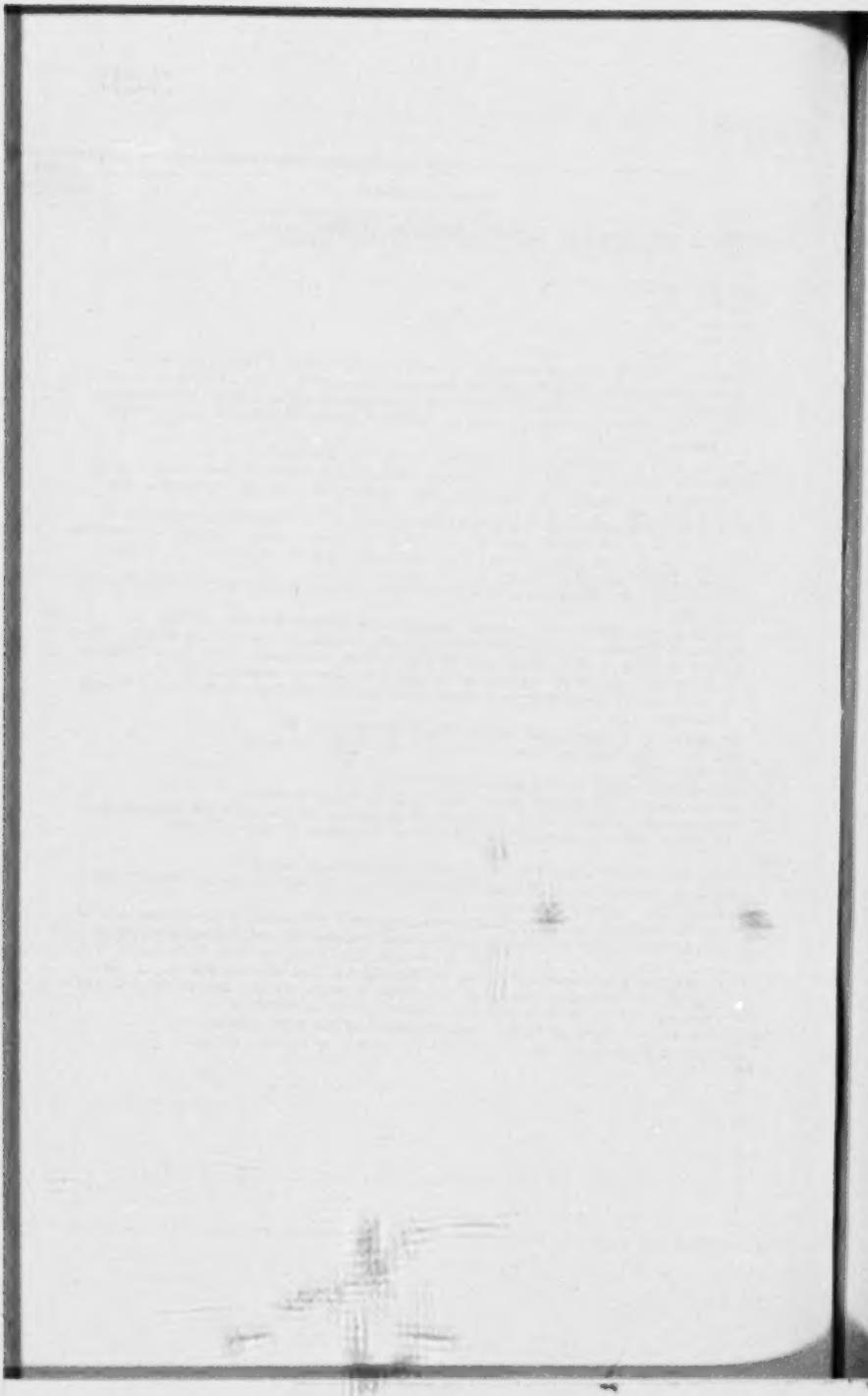
[fol. 333]

7480

DATE 1959	SHREVEPORT	AMOUNT REPORTED ON ENCLOSURE RETURNS
7-10	Original complaint with attached exhibits, filed.	
"	Motion for temporary restraining order, filed.	
"	Original Summonses (6), with copies for service, issued.	
7-10	See No. 7479.	
7-12	See No. 7479.	
7-12	See No. 7479.	
7-12	See No. 7479.	
7-12	See No. 7479.	
7-12	See No. 7479.	
7-13	Marshal's return on summonses (6) filed: Robert C.Storey served in person on 7-10-59; Other five summonses returned unexecuted - See returns for details.	
"	Marshal's return on writs of temporary restraining order & rule to show cause (3) filed: Robert C.Storey, John S. Battle & George M.Johnson each served in person 7-12-59.	
7-14	See No. 7479. (Hearing had on motion for bond - denied.)	
7-17	Marshal's return on writs of temporary restraining order & rule to show cause (3) filed: Rev.Theodore S.Hesburgh, Doyle E.Carlton and John A.Hannah, each served 7-13-59.	
7-22	Motion by Plffs. & order continuing in force & effect temporary restraining order to 9:30 AM 8-1-59, as well as the rule to show cause, which is continued to 8-7-59 at 9:30 A.M., filed. Certified copy thereof delivered to Marshal to be served on U.S.Attorney.	
7-22	Marshal's return on service of 7-22-59 order filed: Defts. served thru US Atty. 7-22-59.	
7-31	Motion by defendants for summary judgment and notice thereof, filed.	SJ
"	Motion by Defendants to vacate and dissolve temporary restraining order, filed.	M
"	Answer to Rule to Show Cause and to plaintiffs' complaint filed by defendants	A RT
"	Brief by defendants in support of motion for summary judgment, filed. (A copy of all documents this date filed was mailed 7-31-59 to Judges Wisdom & Hunter). ✓	
8-7	Amendment to answer filed on behalf of defendants. ✓	
8-7	See No. 7479. (Hearing on motions and trial on merits had).	
8-14	See No. 7479.	
8-14	Defendants' supplemental memorandum filed. ✓	
8-17	Entire record and docket sheet delivered to Judge Dawkins. ✓	
8-19	Post argument supplemental brief filed on behalf of plaintiffs & delivered to Judge Dawkins. Copies thereof mailed to Judges Wisdom & Hunter.	
8-27	Court Reporter's Transcript of 8-7-59, proceedings, filed.	
" 8-5	Brief by plaintiff on hearing for preliminary injunction and in opposition to motion for summary judgment, filed.	
11-9	Opinion (ruling) by Judge Dawkins holding that preliminary injunction prayed for by plaintiffs will be granted, filed. Order of Judge Dawkins in accordance with ruling of this date enjoining & restraining defendants from conducting the proposed hearing in Shreveport, La. wherein Plffs. are accused of depriving others of the right to vote, filed. Copies of both documents mailed to US Attorney and to counsel for plaintiffs.	
11-19	Defendant's notice of Appeal from Judgment of 11-9-59, filed.	
"	Defendants' designation of contents of record on appeal, filed.	



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[fol. 336] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 337] [File endorsement omitted]

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

District Court Civil Action No. 7480

JOHN A. HANNAH, et al., individually and in their official capacity as members of the Commission on Civil Rights, Appellants,

v.

J. A. H. SLAWSON, et al., Appellees.

MOTION FOR AN ORDER DIRECTING THE CLERK TO TRANSMIT TO THE SUPREME COURT FORTHWITH THE CERTIFIED COPY OF THE RECORD NOW FILED WITH THIS COURT—Filed Nov. 20, 1959.

Appellants herein respectfully move this Court for an order directing the Clerk to transmit to the Supreme Court forthwith the certified copy of the record now filed with this court. In support of this motion, appellants show as follows:

This action originated in the District Court for the Western District of Louisiana as a suit (Civil Action No. 7480) to enjoin a hearing scheduled by the Commission on Civil Rights, a temporary agency of the United States created by the Civil Rights Act of 1957, 42 U. S. C. Section 1975 et seq.[1] Plaintiffs in this action (appellees here) are individual citizens of Louisiana, who had been subpoenaed to appear at the hearing. The action was filed simultaneously with the case of *Larche, et. al.* v. *Hannah, et. al.*

---

[1] Section (A) (1) of The Civil Rights Act, 42 U. S. C. § 1975 (a) (1), authorizes the Commission to investigate allegations in writing, under oath or affirmation, that certain citizens are being deprived of the right to vote on account of race or color.

(Civil Action No. 7479, W.D. La.), a suit by Registrars of Voters for certain parishes in Louisiana seeking the same relief. In both cases the plaintiffs claimed that the Commission's rules and procedures, which do not provide for apprisal, confrontation or cross-examination, are illegal. [fol. 338] Because the complaint in *Larche*, unlike the complaint in the instant case, challenged the constitutionality of the Act creating the Commission on the ground that it did not constitute "appropriate legislation" within the meaning of the Fifteenth Amendment to the Constitution of the United States, a three-judge court was there convened pursuant to 28 U.S.C. Section 2282. In an opinion in the *Larche* case, filed October 7, 1959, the three-judge court, Judge Wisdom dissenting, ruled that although the Act was constitutional, the foregoing rules and procedures of the Commission were unauthorized by statute. In an Order dated November 9, 1959, the Commission was enjoined from conducting hearings in Louisiana under the challenged rules and procedures. In the instant case an identical Order, from which this appeal is taken, was entered on November 9, 1959, by Judge Dawkins, Jr.[2]

Appellants have filed a Notice of Appeal to the Supreme Court from the *Larche* Order, which is appealable directly to the Supreme Court under 28 U.S.C. Section 1253. Because of the Commission's limited life, and the consequent importance of obtaining a Supreme Court determination on the issues involved in *Larche* with minimum delay, appellants intend to do everything possible to expedite that appeal, including the filing of a Motion to advance the case on the Supreme Court Calendar.[3] If the Supreme

---

[2] Although Judge Dawkins' order is unrestricted in terms, it appears to be a preliminary, not a final, injunction. He so designated it in a "Ruling", filed on the same day as the order, in which he referred to the opinion of the three-judge court in *Larche* as the basis for his decision. Even if the order is a preliminary injunction, however, it is appealable to this court under 28 U.S.C. § 1292.

[3] Considerable delay has already been incurred in the *Larche* case by the lapse of more than one month between the entry of the opinion of the three-judge court and entry of its order granting the injunction.

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Court, however, upon an expedited appeal, should reverse the judgment in *Larche*, such reversal might still leave outstanding the judgment in the instant case, if the instant case were to take a normal appellate route. Because the issues in the two cases are substantially identical,[4] there is every reason for the Supreme Court to hear and decide [fol. 339] them at the same time. Thus, we intend to file with the Supreme Court, at the same time as we file our Jurisdictional Statement in *Larche*, a petition in the instant case for certiorari before judgment, pursuant to Rule 20 of the Revised Rules of the Supreme Court, 28 U. S. C. If the petition should be granted, the record would be brought up to the Supreme Court from this court.

The Supreme Court cannot act upon the petition for certiorari unless the record is filed in that Court. The objective of this motion is to enable us to file with the Supreme Court the certified copy of the record, now filed in this Court.[5]

Conclusion

Wherefore appellants pray that this Court enter an order directing the Clerk to transmit to the Supreme Court forthwith the certified copy of the record now filed with this Court.

/s/ Joseph M. F. Ryan, Jr., Acting Assistant Attorney General, Civil Rights Division. T. Fitzhugh Wilson, United States Attorney, Western District of Louisiana.

[fol. 340] Certificate of Service Omitted in Printing

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[4] As we have stated in ftn. 2, *supra*, Judge Dawkins used the opinion of the three-judge court, of which he was a member, as the basis of his decision in the instant case. The rationale of both decisions, therefore, is the holding that Congress did not authorize the Commission to hold hearings without providing for apprisal, confrontation and cross-examination.

[5] Our notice of appeal was filed in this case on November 19, 1959. The record was filed in this Court on November 20, 1959.

[fol. 341] IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 18,097

JOHN A. HANNAH, et al, individually and in their official capacity as members of the Commission on Civil Rights, Appellants,

v.

J. A. H. SLAWSON, et al, Appellees

Appeal from the United States District Court for the Western District of Louisiana

ORDER DIRECTING TRANSMITTAL OF ORIGINAL RECORD AND GRANTING STAY—NOV. 21, 1959

On consideration of the motion filed by appellants for an order directing the Clerk of this Court to transmit to the Supreme Court of the United States forthwith the certified copy of the record on appeal filed this date in the above numbered and entitled cause.

It is ordered that such motion be, and the same is hereby granted. Further proceedings in this appeal are hereby stayed pending the Supreme Court's disposition of appellants' application for writ of certiorari, and in the event certiorari is granted, until final termination of this cause in the Supreme Court of the United States. In the event certiorari is denied, the certified copy of the typewritten transcript of record with proceedings had in this Court appended thereto, is to be returned to the custody of the Clerk of this Court.

/s/ Richard T. Rives, Chief Judge, U.S. Court of Appeals.

November 21, 1959.

COPY BOUND CLOSE IN CENTER

[fol. 342] UNITED STATES OF AMERICA, UNITED STATES COURT OF APPEALS, FIFTH CIRCUIT

CLERK'S CERTIFICATE

I, Edward W. Wadsworth, Clerk of the United States Court of Appeals for the Fifth Circuit, do hereby certify that the pages numbered from 337 to 341, next preceding this certificate are true copies of the proceedings had in this Court in a certain cause, numbered 18097, wherein John A. Hannah, et al, individually and in their official capacity as members of the Commission on Civil Rights, are appellants, and J. A. H. Slawson, et al, are appellees, as full, true and complete as the originals of the same now remain in my office.

I further certify that the pages numbered from 1 to 336 is the certified transcript of record filed by the Clerk of the United States District Court for the Western District of Louisiana.

In testimony whereof, I hereunto subscribe my name and affix the seal of the said United States Court of Appeals at my office in the City of New Orleans, Louisiana, in the Fifth Circuit this 21st day of November, A. D., 1959.

Edward W. Wadsworth, Clerk, United States Court of Appeals for the Fifth Circuit.

[fol. 343] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1959

Nos. 549 and 550

JOHN A. HANNAH, et al, Appellants,

vs.

MARGARET M. LARCHE, et al; and JOHN A. HANNAH, et al, Petitioners

vs.

J. A. H. SLAWSON, et al.

RULING ON MOTION TO ADVANCE—December 7, 1959

Upon Consideration of the motion to advance filed by the Solicitor General wherein he states that his brief on the merits will be filed on or before December 15, 1959, the Court directs that on or before Wednesday, January 13, 1960, the appellees shall file any motion or motions responsive to the statement as to jurisdiction and on the merits of the case, the respondents shall file any brief relating to the granting or denying of the petition for writ of certiorari and on the merits of the case, and the cases are set for oral argument on Monday, January 18, 1960, on the petition for writ of certiorari, the jurisdiction on appeal, and on the merits of the cases.

The cases are consolidated for the purpose of this argument and a total of four hours is allowed.

December 7, 1959

☆ U. S. GOVERNMENT PRINTING OFFICE: 1959 [illegible]

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